

Bail Slip

The Appellate/ Sole Accused namely viz., Nagaraj S/o.Thambidurai be and hereby is directed to released on bail order dt.15.06.2012 made in CrI.MP. No.1 of 2012 in CrI.Rc 590 of 2012 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.04.2019

Coram:

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

Criminal Revision Case No.590 of 2012

Nagaraj

... Petitioner/Appellant/Accused

/versus/

State,
rep.by the Sub Inspector of Police,
Nagore Police Station,
Nagapattinam District.

Respondent/Respondent/
Complainant

Criminal Revision Case filed under Section 397 r/w 401 of the Criminal Procedure Code to set aside the judgment made in CrI.A.No.35 of 2009 dated 17.11.2011 on the file of the District and Sessions Judge at Nagapattinam in modifying the judgment made in C.C.No.240 of 2006 dated 06.07.2009 on the file of the Judicial Magistrate No.II, Nagapattinam by allowing the present criminal revision petition and to acquit the petitioner from the charge.

For Petitioner :Mr.R.K.Ayyappan
(No Appearance)

For Respondent :Mr.T.Shunmuga Rajeswaran
G.A.(crl.side)

ORDER

This Criminal Revision Case is against the concurrent finding of the Courts below.

2. The revision petitioner herein was tried for the offence under Sections 294 (b), 326 and 506 (ii) of IPC. The trial Court found the accused guilty of offence under Sections 294(b) and 326 of IPC, however, acquitted him from the charge under Section 506(ii) of IPC. The trial Court sentenced the accused to pay a fine of Rs.500/- in default, to undergo three weeks Simple Imprisonment for the offence under Section 294(b) IPC and to undergo three years Simple Imprisonment and to pay a fine of Rs.1,000/- in default, to undergo further Simple Imprisonment for six months for the offence under Section 326 of IPC.

3. Aggrieved by the judgment of conviction, the accused preferred an appeal before the District and Sessions Court, Nagapattinam in CrI.A.No.35 of 2009. On re-appreciation of the evidence, the lower appellate Court has confirmed the conviction, but modified the sentence to the effect that the conviction under Section 294 (b) IPC found not proved and acquitted him. However,, the conviction under Section 326 IPC was confirmed, but period of sentence reduced from 3 years Simple Imprisonment to one year Simple Imprisonment without altering the fine amount and default sentence.

4. This appeal is preferred challenging the above modified sentence passed by the lower appellate Court.

5. The brief facts of the case as per the prosecution witnesses is that PW-1[Rajadurai] and the accused Nagaraj are the residents of the same locality. On 21.09.2005 at about 05.00 p.m., when PW-1 was talking with one Thandakaran @ Thundikaran, the accused was under the impression that they are talking something bad about him, hence, the accused started abusing PW1, took aruval and cut PW-1 on his head. Thereafter, he threatened PW-1 that he will not leave him alive. The weapon was seized from the accused by the neighbours Raj and Lakshmanan. The accused fled away from the scene of occurrence. PW-1 was admitted in the Government Hospital for treatment. After receiving the complaint from the injured(PW-1), the prosecution has commenced the investigation and has filed the final report.

6. The trial Court, after examining the defacto complainant/injured victim(PW-1-Rajadurai), the witness(PW-2-Raj), who has seen of occurrence, PW-4(Dr.M.A.Kadhar), who treated the injured and Saminathan(PW-5), Sub Inspector of

Police who investigated the case and relying upon the exhibits and material objects marked by the prosecution, has convicted the accused for the offence under Section 294(b)IPC and 326 of IPC as stated above.

7. On appeal, the lower appellate Court, on re-appreciation of the evidence, pointing out that though the presence of PW-2(Raj) is proved, but not fully supports the prosecution. The evidence of the injured victim(PW-1) clearly proves the fact that the accused/petitioner has caused the injury on the head of PW-1. The evidence of the Doctor (PW-4) regarding the injury proves that it was grievous in nature. M.O.1(Aruval) recovered by the police from the place of occurrence on the same day corroborates the case of the prosecution, since the weapon and the injury corresponds, the finding of the trial Court regarding the guilt of the accused for the offence under Section 326 of IPC is well found. However, reduced the period of sentence to one year Simple Imprisonment with fine of Rs.1000/- in default 6 months Simple Imprisonment.

8. In this revision, the accused contents that when PW-2 (Raja) has not fully corroborated the case of the prosecution, the Court below ought not to have held the accused guilty. The prosecution has not proved the motive of the accused to attack PW-1. Without establishing the motive, a person cannot be punished. The revision petitioner found fault with the Courts below for relying upon the evidence of PW-1(injured victim) for convicting him.

9. The perusal of the record indicates that the grounds raised in the revision petition are unsustainable and without any substance and base. When the injured (PW-1) has categorically deposed about the manner in which the accused attacked him without any provocation and has identified the weapon, which is corroborated by the medical records (Accident Register) and the testimony of Dr.Kadhar[PW-4], no other corroboration is required. Since the testimony of PW-1 is found impeached.

10. The lower appellate Court has taken a very lenient view and had awarded one year Simple Imprisonment and fine of Rs.1,000/- in default to ,undergo six months Simple Imprisonment for the offence under Section 326 of IPC. Having cause grievous injury on the head of the victim(PW-1) using a lethal weapon, the conviction and sentence as modified by the lower appellate Court is adequate and appropriate, it needs no interference. Hence, this Criminal Revision Case is liable to be dismissed.

11. Accordingly, this Criminal Revision Case is dismissed. The judgment of conviction and sentence passed by the lower appellate Court viz. The District and Sessions Judge, Nagapattinam in C.C.No.35 of 2009 dated 17.11.2011 is confirmed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

- 1.The District and Sessions Judge at Nagapattinam.
- 2.The Judicial Magistrate No.II,
Nagapattinam.
- 3.The Chief Judicial Magistrate,
Nagapattinam.
- 4.The Superintendent,
Central Prison, Trichy.
- 5.The Sub Inspector of Police,
Nagore Police Station,
Nagapattinam District.
- 6.The Public Prosecutor,
High Court, Madras.

Cr1.R.C.No.590 of 2012

KJ(CO)

RRS (27/05/2019)

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